

Office of the  
CLARK COUNTY LAND USE HEARING EXAMINER

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**NOTICE TO PARTIES OF RECORD**

**Project Name: VARNEY SUBDIVISION**

**Case Number: PLD2009-00030, SEP2009-00054**

The attached decision of the Land Use Hearing Examiner will become final and conclusive unless a written appeal is filed with the Board of Clark County Commissioners, 6<sup>th</sup> floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington, no later than 5:00 p.m. on, **November 5, 2009** (14 calendar days after written notice of the decision is mailed).

The Hearing Examiner's procedural SEPA decision is final and not appealable to the Board of County Commissioners.

All other appeals must be written and contain the information required under CCC 40.510.030(H), and placed in the following preferred format:

1. Project Name
2. Case Number
3. Name and signature of each petitioner: The name and signature of each petitioner and a statement showing that each petitioner is entitled to file the appeal under Section 40.510.030(H)(1). If multiple parties file a single petition for review, the petition shall designate one (1) party as the contact representative for all contact with the responsible official.
4. Introduction:  
Provide a brief history of the case. This should include a chronology of dates of related applications, cases numbers, and a description of the proposal as it relates to the decision being appealed
5. Standard of Review:  
Describe what standard of review (i.e., board's discretion to reverse the examiner's decision) you believe applies to board's review of the alleged errors (e.g., substantial evidence for challenges to findings of fact; de novo review for code interpretation; or, clearly erroneous for issues involving application of code requirements to particular facts).
6. Alleged Errors/Response to Alleged Errors:  
Identify the specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error (i.e., reference the relevant exhibits and passages, court cases, etc.).

The appeal fee is **\$716**

The Board of Commissioners shall hear appeals of decisions based upon the written record before the examiners, the examiner's decision, and any written comments received in the office of the Board within the following submittal deadlines measured from the date of the filing of the appeal:

- Fourteen (14) calendar days for the appellant's initial comments;
- Twenty-eight (28) calendar days for all responding comments; and,
- Thirty-five (35) calendar days for appellant reply comments, which are limited to the issues raised in the respondent's comments.

Written comments shall be limited to arguments asserting error in or support of the examiner decision based upon the evidence presented to the examiner.

Unless otherwise determined by the Board for a specific appeal, the Board shall consider appeals once a month, on a reoccurring day of each month. The day of the month on which appeals are considered shall be consistent from month to month as determined by Board.

The Board may either decide the appeal at the designated meeting or continue the matter to a limited hearing for receipt of oral argument. If continued, the Board of Commissioners shall designate the parties or their representatives to present argument, and permissible length thereof, in a manner calculated to afford a fair hearing of the issues specified by the Board of Commissioners. At the conclusion of its public meeting or limited hearing for receipt of oral legal argument, the Board of Commissioners may affirm, reverse, modify or remand an appealed decision.

Mailed on: **October 22, 2009**

**VARNEY SUBDIVISION  
PLD2009-00030; SEP2009-00054  
HEARING DATE: 10/8/09**

**PLANNER: MICHAEL UDUK**

**STAFF COMMENTING:  
DOUG BOHEMAN**

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VARNEY SUBDIVISION  
PLD2009-00030; SEP2009-00054  
HEARING DATE: 10/8/09

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**BEFORE THE LAND USE HEARINGS EXAMINER  
OF CLARK COUNTY, WASHINGTON**

Regarding an application by Schlichting, LLC for	)	<b><u>FINAL ORDER</u></b>
approval of a preliminary plat to divide 39.4-acres	)	<b>PLD2009-00030 and</b>
into 7 lots in the R-5 zone at 19704 NE 144 <sup>th</sup>	)	<b>SEP2009-00054</b>
Street in unincorporated Clark County, Washington	)	<b>(Varney Subdivision)</b>

**A. SUMMARY**

1. The applicant requests approval to divide the roughly 39.4-acre site into 7 lots. The site is located at 19704 NE 144<sup>th</sup> Street; also known as tax lot 23 (205166-000), Section 20, Township 3 North, Range 3 East, of the Willamette Meridian (the "site"). The site and surrounding properties are zoned R-5 (Rural, 5-acre minimum lot size). The site is currently vacant. The applicant proposes to construct new single-family detached dwellings each of the proposed lots. All proposed lots will comply with the minimum dimensional standards for the R-5 zone. Clark Public Utilities will provide potable water to the site. The proposed homes will utilize on-site septic systems for sewage disposal. The applicant will improve the existing driveway serving the site from NE 144<sup>th</sup> Street to serve proposed lots 5 through 7. The applicant will create a second shared driveway from NE 202<sup>nd</sup> Avenue to serve proposed Lots 3 and 4. Lots 1 and 2 will take direct access from NE 144<sup>th</sup> Street. The applicant proposes to collect stormwater from impervious areas on the site and treat and discharge the runoff in compliance with County regulations.

2. The County issued a Determination of Nonsignificance ("DNS") for the subdivision pursuant to the State Environmental Policy Act ("SEPA"). Hearings Examiner Joe Turner (the "examiner") conducted a public hearing about the application. County staff recommended that the examiner approve the application subject to conditions. (See the Development and Environmental Review Staff Report and Recommendation to the Hearings Examiner dated September 23, 2009, (the "Staff Report") for details)). The applicant accepted the findings and conditions in the Staff Report, as modified at the hearing, without exceptions. One person testified in writing with concerns about traffic speeds on NE 202<sup>nd</sup> Avenue, Exhibit 18. No one else testified orally or in writing, other than public agency staff. Disputed issues or concerns in the case include the following:

a. Whether area streets can accommodate additional traffic generated by the proposed development; and

b. Whether the applicant is required to record a "developer covenant" instead of a plat note.

3. Based on the findings provided or incorporated herein, the examiner approves the preliminary plat subject to the conditions at the end of this final order.

## **B. HEARING AND RECORD HIGHLIGHTS**

1. The examiner received testimony at a public hearing about this application on October 8, 2009. That testimony and evidence, including a videotape of the public hearing and the casefile maintained by the Department of Community Development ("DCD"), are included herein as exhibits, and they are filed at DCD. The following is a summary by the examiner of selected testimony and evidence offered at the hearing.

2. County planner Michael Uduk summarized the Staff Report and showed photographs of the site. He testified that condition of approval D-5 includes a considerable amount of information that may not fit on the face of the final plat. Therefore the County requires that the applicant record this information in a separate covenant. However the applicant can include the information as a plat note if the applicant can fit all of information on the plat.

3. Engineer Andrew Gunther testified on behalf of the applicant and accepted the findings and conditions in the Staff Report with one exception. He requested the examiner modify condition D-5 to allow the applicant to include the required information as a note on the final plat, rather than as a separate covenant.

4. The examiner closed the record at the end of the hearing and announced his intention to approve the proposed development subject to the conditions of approval in the Staff Report, as amended at the hearing.

## **C. FINDINGS:**

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The following issues relate to the mandatory applicable approval criteria for this proposal and were addressed by County staff in their reports, by agency comments, by the applicant and others. The Examiner adopts the following findings with regard to each:

### **LAND USE:**

#### **Finding 1**

The development site is approximately 39.40 acres situated on northwestern corner of NE 144<sup>th</sup> Street and NE 202<sup>nd</sup> Avenue. A tributary of Mud Creek run along its northwestern section, and an unnamed tributary runs along its southwestern section. The applicant is proposing a 7-lot rural subdivision. The preliminary plat shows that six lots, Lots 1, 2, 3, 5, 6, and 7, will each be approximately 5 acres in area, while Lot 4 will be approximately 9.55 acres in area. The site is zoned R-5.

### Finding 2

A. Table 40.210.020-2 (Lot Requirements) provides the lot requirements in the R-5 zoning district as follows:

- The minimum lot area is 5 acres; or, the lot could legally be described as one one hundred and twenty-eight (1/128) of a section; and,
- The minimum lot width shall be 140 feet; except when the Clark County Fire code requires a greater lot width. The code does not provide a standard for the minimum lot depth.

B. Table 40.210.020-3 (Setbacks, Lot Coverage and Building Height) provides the following standards in the R-5 district:

1. Minimum front yard setback	50 feet
2. Minimum side yard setback (street)	25 feet
3. Minimum interior side yard setback	20, 50 feet <sup>1</sup>
4. Rear yard setback	20, 50 feet <sup>2</sup>
5. Setback between buildings	8 feet
6. Lot coverage	N/A
7. Maximum building height	35 feet <sup>3</sup>

The examiner finds that the proposed short plat can comply with the lot requirements, setbacks lot coverage, and building height standards in the code. (See Conditions D-1a and b)

### Finding 3

The examiner finds that Lot 7, proposed as a 4.50-acre parcel, is within 10 percent of the minimum lot area standard in the R-5 zoning district. CCC 40.200.040 (C) (2) (Lot Area Calculations) allows one (1) lot in a land division to be within 10 percent of the required minimum lot size the R-5 zone. Lot 4 is proposed as a 9.55-acre parcel; and, cannot be further divided (or platted) utilizing the 10 percent minimum lot area variance authorized in CCC 40.200.040 (C) (2) (Lot Area Calculations). The applicant will place a note to that effect on the face of the final plat. (See Condition D-7a)

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<sup>1</sup> The minimum side setback on each side of the residential dwelling and incidental buildings shall be 20 feet and 50 feet for accessory buildings used for agricultural purposes. Side setbacks for abutting properties zoned for natural resource or surface mining uses shall be a minimum of 50 feet.

<sup>2</sup> The minimum rear yard setback shall be 50 feet when abutting property zoned for natural resources or surface mining uses.

<sup>3</sup> This standard applies to residential buildings only.

**Conclusion (Land Use):**

The examiner concludes that the proposed preliminary plan, subject to conditions identified above, meets the land use requirements of the Clark County Code.

**ARCHAEOLOGY:**

(See Standard Condition A-1a and D-7b)

**HABITAT:****Finding 1**

Mud Creek, a Department of Natural Resources (DNR) mapped type F (fish-bearing) stream flows through the northwestern corner of the property. According to Title 40.440.010(C)(1)(a), a DNR type F watercourse requires a 200-foot riparian Habitat Conservation Zone (HCZ) in order to protect fish and wildlife habitat. The riparian HCZ extends 200 feet horizontally outward from the ordinary high water mark. Additionally, a DNR type Ns (non-fish bearing, seasonal) stream also flows in the northwestern corner of the property. A DNR type Ns stream requires a 75-foot riparian HCZ. Finally, a DNR type Np (non-fish bearing, perennial) stream flows through the southwestern corner of the property. A DNR type Np stream requires a 100-foot riparian HCZ.

**Finding 2**

That applicant has delineated a development disturbance line that is outside of the riparian HCZs on the site. The examiner finds this meets the exemption criterion identified in Table 40.440.010-1, row 2 of the Habitat Conservation Ordinance, subject to the following condition of approval.

**Conclusion (Habitat):**

The examiner finds that the proposed preliminary plan, subject to Condition D-2, meets the habitat requirements of the Clark County Code.

**GEOLOGIC HAZARD AREAS:****Finding 1**

The applicant provided a Limited Slope Stability Reconnaissance report prepared by Chinook GeoServices, Inc., dated August 17, 2009, stamped and signed by Marcella M. Boyer, a professional engineer licensed in the state of Washington and also stamped and signed by Warren Krager, a geologist licensed in the state of Washington. This report states that it is the Chinook GeoServices professional opinion that the subject site does not exhibit significant evidence of past or ongoing landslides and presents a relatively low slope stability hazard to future development. It is also their opinion that the setbacks required for the stream buffer zones shown on the preliminary plat also provide an adequate slope setback for development, i.e. grading or structures. (See Plat Note D-7g)

**TRANSPORTATION:****Access Management****Finding #1**

The preliminary plat shows that no roads, public or private will be created by this land division. All lots will be served either by driveways or a joint driveway. Both NE 202<sup>nd</sup>



Avenue and NE 144<sup>th</sup> Street are designated as Rural Local Access roads. There are no driveway spacing requirements along local access roads except for the corner lots. In accordance with CCC 40.350.030(B)(4)(b)(1)(b), corner lot driveways shall be a minimum of fifty (50) feet from the intersecting property lines, as measured to the nearest edge of the driveway the driveways shown on the preliminary plat meet the spacing requirements.

#### Frontage Roads

##### Finding #2

Both NE 144<sup>th</sup> Street and NE 202<sup>nd</sup> Avenue are designated as Rural Local Access roads. Provided that 20 feet of paved width exist and the site is not inside Rural Center zoning designation as defined by CCC 40.210.030, frontage improvements are not required in the rural areas. However, half-width right-of-way of 25 feet is required. The preliminary plat shows that 60 feet of full-width exist along the frontages of NE 144<sup>th</sup> Street and NE 202<sup>nd</sup> Avenue, providing a 30-foot half-width right-of-way for both roads.

#### Intersection Design

##### Finding #3

In accordance with CCC 40.350.030(B)(7)(c), driveways in rural areas connecting with paved public roads are required to be paved from the edge of the public road to the right-of-way or twenty feet from the edge, whichever is greater. (See Condition A-2a)

#### Sight Distance

##### Finding #4

All driveways, except for the joint driveway to serve the proposed Lot 3 and 4 meet the required sight distance. A row of Arborvitaes planted on the neighboring lot restricts sight distance to the north of this driveway too less than is required by CCC 40.350.030(B)(8). The applicant proposes to move the joint assess for the proposed Lots 3 and 4 to the south by approximately 10 feet and obtain approval of a Design Road Modification in accordance with CCC 40.550.010 to reduce the distance between the location of the driver's eye and the edge of the travel lane from required 15 feet to 12 feet. (See Transportation Finding #7)

#### Joint Use Driveways

##### Finding #5

The preliminary plat shows that the proposed Lots 3 and 4 will share a joint use driveway and Lots 5 through 7 will also share a joint use drive way. In accordance with CCC 40.350.030(b)(12), a maximum of three (3) legal lots may use a joint driveway to access a public or private road. The joint driveways shall be constructed with a minimum of 12-foot wide all weather surface within 20-foot easement. The preliminary plat shows these driveways in compliance with the provisions of the Transportation Standards.

#### Cul-de-sacs and Turnarounds

##### Finding #6

In accordance with CCC 40.350.030(B)(12)(a)(3), approved turnarounds may include cul-de-sacs, which may include the width of the roadway, intersecting public or private roads, hammerheads, or driveways meeting the dimensional requirements of a

hammerhead. The applicant shall provide turnarounds and turnouts as required by the Transportation Standards. (See Condition A-2b)

#### Road Modifications

##### Finding #7

The applicant has requested a Road Modification to sight distance standard, CCC 40.350.030(B)(B)(8). The request is for reduction in the distance from the edge of the travel lane to where the vehicle sits in the driveway. The applicant believes that a road modification should be allowed to reduce the “driver’s eye” location from 15 feet to 12 feet requirement since it is a minor change to the standards meeting the road modification criterion described in CCC 40.550.010(A)(1)(b).

The examiner approves the road modification because it meets the specific criteria as stated above subject to a condition. (See Exhibit 19, and Condition A-2c)

#### **Conclusion (Transportation):**

Based upon the development site characteristics, the proposed transportation plan, the requirements of the County’s transportation ordinance, and the findings above, the examiner concludes that the proposed preliminary transportation plan, subject to conditions, meets the requirements of the county transportation ordinance.

#### **TRANSPORTATION CONCURRENCY:**

Public Works Transportation Concurrency staff has reviewed the application and concluded that there are no transportation concurrency issues with this application.

This development will increase the volume of traffic on streets in the area. That increased traffic will be perceptible to area residents. However County and City engineering staff determined that it will not exceed the capacity of streets nor create a hazard. There is no substantial evidence to the contrary. Neighbor’s unsupported concerns about increased traffic are not substantial evidence sufficient to overcome the expert testimony of the traffic engineers for the County and the applicant.

There is no posted speed limit on 202<sup>nd</sup> Avenue. Therefore the “basic rule” of RCW 46.61.400(2)(b) applies and the maximum speed is 50 mph on this road. Although the examiner assumes that reasonably prudent drivers will observe speed limits in the area, some percentage of the new traffic will speed. However there is no evidence that the proposed development will contribute a disproportionate share of imprudent drivers.

Higher traffic volume creates a roughly proportionally higher risk for drivers, pedestrians and bicyclists. In response reasonably prudent people exercise more care personally and with family members. The examiner concludes that the increased risk that results from traffic generated by the proposed development does not pose a hazard to public health and safety, because of the small absolute and relative impacts of the subdivision. Those risks are consistent with the location of the site in an area where county plans call for the sort of development being proposed.

## **STORMWATER:**

### **Applicability**

#### **Finding 1**

The Stormwater and Erosion Control Ordinance CCC 40.380 applies to development activities that results in 5,000 square feet or more of new impervious area within the rural area and all land disturbing activities, except those exempted in Section CCC 40.380.030(A).

According to the applicant, the project will create approximately 2,000 square feet of impervious surface during the development of the subdivision. The future homes will create approximately 14,000 square feet of impervious surface and the individual driveways will add another 14, 000 square feet of impervious surfaces. Exactly how much area on each lot will be impacted is currently not known. These areas will be partially replaced with impervious surface such as gravel, pavement, concrete, and roofs. The project creates more than 5,000 square feet of impervious surfaces and is a land disturbing activity not exempted in Section CCC 40.380.030(A). Therefore, this development shall comply with the Stormwater and Erosion Control Ordinance, CCC 40.380.

The erosion control ordinance is intended to minimize the potential for erosion and a plan is required for all projects meeting the applicability criteria listed in CCC 40.380,050. This project is subject to the erosion control ordinance.

### **Stormwater Proposal:**

#### **Finding 2**

The runoff from the project's impervious surfaces will be dispersed through the existing pervious surfaces and proposed landscaping for water quality and water quantity. As shown on the preliminary plat, a substantial portion of the site will be protected from development through designated buffers. This development is currently vested under the previous stormwater code, CCC 40.380. The superseded code allowed full dispersion as a form of water quality and quantity mitigation as an Experimental Best Management Practice described in Section CCC 40.380.040(9). (See Condition A-3a)

The stormwater control facilities as proposed will be a privately owned and maintained by each of the homeowners of this subdivision. (See Condition E-2)

### **Site Conditions and Stormwater Issues**

#### **Finding 3**

The property is approximately 39.40 acres in area with slopes of 0-5% over 34% of the parcel, 5-10% over 50% of the parcel, 10-15% over 9% of the parcel, 15-25% over 6% of the parcel, and 25-40% over 1% of the parcel. The existing site contains dense 10-15 year old Douglas fir trees. The site is located on a localized high point, approximately the north half of the site slopes to the northwest toward Mud Creek while approximately the south half of the site slopes toward the southwest to an unnamed tributary to Mud Creek.

The National Resources conservation service mapping shows the site to be underlain by Hesson soils (HcB, HgD, and HcD), classified by AASHTO as A-7 soils. This soil is designated as hydrologic group "C". CCC 40.380 does not list A-7 soils as suitable for infiltration; therefore, disposal of stormwater runoff by infiltration is not proposed and quantity and quantity control is to be achieved by dispersion.

**Conclusion (Stormwater):**

Based upon the development site characteristics, the proposed stormwater plan, the requirements of the County's stormwater ordinance, and findings above, the examiner concludes that the proposed preliminary stormwater plan is feasible subject to conditions. Therefore, the requirements of the preliminary plan review criteria are satisfied.

**FIRE PROTECTION:**

**Finding 1 – Fire Marshal Review**

Tom Scott in the Fire Marshal's Office reviewed this application. Tom can be reached at (360) 397-2375 x4095 or 3323. Information can be faxed to Tom at (360) 759-6063. Where there are difficulties in meeting these conditions or if additional information is required, contact Tom in the Fire Marshal's office immediately.

**Finding 2 – Building Construction**

Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process. (See Condition B-1a)

**Finding 3 – Fire Flow**

Fire flow in the amount of 500 gallons per minute supplied for 30 minutes duration is required for this application. Information from the water purveyor indicates that the fire flow is available at the site. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. (See Conditions B-1b)

**Finding 4 – Fire Hydrants**

Fire hydrants are required for this application. The indicated fire hydrant is adequate.

Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, contact Fire District 3 at 360-892-2331 to arrange for location approval. (See Condition B-1c)

**Finding 5 - Fire Apparatus Access**

The roadways and maneuvering areas as indicated in the application meet the requirements of the Clark County Road Standard.

Provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus. (See Conditions B-1d)

#### Finding 6 - Fire Apparatus Turnarounds

Fire apparatus turnarounds are required and meet the requirements of the Road Standard.

New private driveways in excess of three hundred (300) feet in length shall be provided with an approved turnaround at the terminus. Turnouts shall be provided at intervals five hundred (500) feet or less, such that no portion of the driveway is in excess of three hundred (300) feet from an approved turnaround or turnout. (See Condition B-1e)

#### **Conclusion (Fire Protection):**

The examiner finds that the proposed preliminary plan, subject to conditions identified above, meets the fire protection requirements of the Clark County Code.

#### **WATER & SEWER SERVICE:**

##### Finding 1

Clark Public Utilities (CPU) provides potable water in the area. A utility review for potable water from CPU indicates that a 6-inch water main already exists on the site to provide potable water. If there is a need, the pipe would be upgraded to an 8-inch water main to provide adequate potable water and fire flow. The applicant will need to implement the necessary improvements to connect each lot to public water provided by CPU. Each lot will have its own on-site septic systems. (See Conditions A-5a)

##### Finding 2

The use of septic systems is proposed to serve the site. A "Health Department Evaluation Letter" has been submitted that confirms the Health Department conducted an evaluation of the site and determined that no existing wells or septic systems are located on the site, and no structures on the site have been/are hooked up to water and/or sewer. The letter also confirms that septic systems permit release (for each lot) is pending approval of the design. Confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer. The Health Department Final Approval Letter will confirm that all existing wells and/or septic systems have been abandoned, inspected and approved by the Health Department. (See Condition A-5b)

#### **Conclusion (Water & Sewer Service):**

The examiner finds that the proposed preliminary plan, subject to conditions identified above, meets the water and sewer service requirements of the Clark County Code.

#### **IMPACT FEES:**

There is no defined parks improvement district in the area; but, Hockinson School District Impact Fee (SIF) and Rural District 1 Traffic Impact Fee (TIF) will be assessed on all 7 proposed lots prior to building permit issuance.

*The following note shall be placed on the final plat stating that:*

"In accordance with CCC 40.610, park, school and traffic impact fees shall be assessed on all 7 lots as follows:

1. \$7,090.02 SIF per new single-family dwelling in the Hockinson School District; and,
2. \$2,749.47 per new single-family dwelling in Rural 1 Traffic Impact Fees District (made up of \$1,403.23 local fees and \$1,347.24 regional fees).

“The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated \_\_\_\_\_, and expiring on \_\_\_\_\_. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedules.” (See Conditions D-5d, E-1)

**PLAT NOTES:**

The applicant is required to include certain information with the final plat. If there is sufficient space, the applicant can include that information as a note on the plat. Otherwise the applicant must record a separate “Developer Covenant.” (See Condition D-5)

**D. CONCLUSION**

Based on the above findings and discussion, the examiner concludes that PLD2009-00030 and SEP2009-00054(Varney Subdivision) should be approved, because it does or can comply with the applicable standards of the Clark County Code and the Revised Code of the State of Washington, subject to conditions of approval necessary to ensure the final plat and resulting development will comply with the Code.

**E. DECISION**

Based on the foregoing findings and except as conditioned below, the examiner hereby approves PLD2009-00030 and SEP2009-00054(Varney Subdivision) in general conformance with the applicant's revised preliminary plat (Exhibit 14 and the related plans, reports and proposal (Exhibits 6, 13 and 16). The approval is granted subject to the requirements that the applicant, owner or subsequent developer (the “developer”) shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

**Conditions of Approval**

**A Final Construction Plan Review for Land Division  
Review & Approval Authority: Development Engineering**

Prior to construction, a Final Construction shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

**A-1 Final Construction Plan**

The applicant shall submit and obtain County approval of a final construction plan in conformance to CCC 40.350 and the following conditions of approval:

- a. Archaeology - A note shall be placed on the face of the final site plan and construction plans as follows:

"If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Department of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

**A-2 Final Transportation Plan/On-Site**

The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350 and the following conditions of approval:

- a. The applicant shall pave back all driveways from the edge of pavement to the property line or for 20 feet, whichever is greater. (See Transportation Finding #3)
- b. The applicant shall provide turnarounds and turnouts as required by Clark County Code. Turnarounds located on individual lots may be deferred to prior home Certificate of Occupancy. (See Transportation Finding #3)
- c. The applicant shall field verify a minimum 500 feet sight distance is obtained with driver's eye location 12 feet from travel lane at shared driveway for lots 3 and 4. Applicant shall trim all sight obscuring brush within the sight distance triangles of all other driveways. (See Transportation Finding #7)

**A-3 Final Stormwater Plan:**

The applicant shall submit and obtain County approval of a final stormwater plan for on and off-site facilities (as applicable), designed in conformance to CCC 40.380 and the following conditions of approval:

- a. This applicant shall be required to perform an offsite analysis extending a minimum of one-fourth of a mile downstream from the development and provide mitigation from stormwater runoff. (See Stormwater Finding 3)

**A-4 Erosion Control Plan:**

The applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.380.

**A-5 Health Department Review:**

- a. The applicant will need to implement the necessary improvements to connect each lot to public water provided by CPU. Each lot will have its own on-site septic systems. (See Water Sewer Finding 1)
- b. Submittal of a "Health Department Project Evaluation Letter" is required as part of the Final Construction Plan Review or early grading application. If the Evaluation Letter specifies that certain actions are required, the Evaluation Letter will specify the timing of when those activities must be completed (e.g., prior to Final Construction Plan Review, construction, Provisional

Acceptance, Final Plat Review, building permit issuance, or occupancy), and approved by the Health Department. (See Water Sewer Finding 2)

**A-6 Fire Marshal Requirements:**  
(See Conditions under Sections B)

**A-7 Excavation and Grading:**  
Excavation / grading shall be performed in compliance with CCC Chapter 14.07.

<b>B</b>	<b>Prior to Construction of Development Review &amp; Approval Authority: Development Inspection</b>
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Prior to construction, the following conditions shall be met:

**B-1 Pre-Construction Conference** - Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County; and,

- a. Building Construction:  
Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process. (See Fire Protection Finding 2)
- b. Fire Flow:  
Fire flow in the amount of 500 gallons per minute supplied for 30 minutes duration is required for this application. Information from the water purveyor indicates that the fire flow is available at the site. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. (See Fire Protection Finding 3)
- c. Fire Hydrants:  
Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local fire district chief approves the exact locations of fire hydrants. The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, contact Fire District 3 at 360-892-2331 to arrange for location approval. (See Fire Protection Finding 4)
- d. Fire Apparatus Access  
The roadways and maneuvering areas as indicated in the application shall meet the requirements of the Clark County Road Standard. Provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus. (See Fire Protection Finding 5)



e. Fire Apparatus Turnarounds

All other new private driveways in excess of three hundred (300) feet in length shall be provided with an approved turnaround at the terminus. Turnouts shall be provide at intervals five hundred (500) feet or less, such that no portion of the driveway is in excess of three hundred (300) feet from an approved turnaround or turnout. (See Fire Protection Finding 6)

**B-2 Erosion Control:**

Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.

**B-3 Erosion Control:**

Erosion control facilities shall not be removed without County approval.

<b>C</b>	<b>Provisional Acceptance of Development Review &amp; Approval Authority: Development Inspection</b>
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Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/land division plan and the following conditions of approval:

**C-1 None**

<b>D</b>	<b>Final Plat Review &amp; Recording Review &amp; Approval Authority: Development Engineering</b>
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Prior to final plat approval and recording, the following conditions shall be met:

**D-1 Land Use:**

- a. Prior to final plat recording, each lot shall comply with the lot requirements in Table 40.210.020-2 (Lot Requirements) as follows:
  - i. The minimum lot area is 5 acres; or, property that can legally be described as one one hundred and twenty-eight (1/128) of a section; and,
  - ii. The minimum lot width shall be 140 feet; except when the Clark County Fire code requires a greater lot width. The table does not include a minimum lot depth standard (or requirement).
- a. Prior to final plat recording, each lot shall comply with the lot requirements in Table 40.210.020-3 (Setbacks, Lot Coverage and Building Height) as follows:
  1. Minimum front yard setback 50 feet
  2. Minimum side yard setback 25 feet
  3. Minimum interior side yard setback (street) 20, 50 feet<sup>4</sup>

<sup>4</sup> The minimum side setback on each side of the residential dwelling and incidental buildings shall be 20 feet and 50 feet for accessory buildings used for agricultural purposes. Side setbacks for abutting properties zoned for natural resource or surface mining uses shall be a minimum of 50 feet.

4. Rear yard setback	20, 50 feet <sup>5</sup>
5. Setback between buildings	8 feet
6. Lot coverage	N/A
7. Maximum building height	35 feet <sup>6</sup>

**D-2 Habitat:**

The applicant shall identify clearly the building envelopes and habitat areas on the face of the final plat. Any revision to the proposed building envelopes shall require additional review.

**D-3 Health Department Signature Requirement:**

The Health Department is required to sign the final plat, because the use of septic systems is proposed.

**D-4 On-Site Sewage System Requirements:**

For on-site sewage system, the following requirements shall be completed:

- a. Each on-site sewage system shall be on the same lot it serves;
- b. Test hole locations corresponding to the designated treatment sites shall be surveyed and indicated on the final plat map;
- c. No public or private easements or rights-of-way shall be extended through the approved, reserve or existing on-site sewage system sites;
- d. Provisions shall be made to prevent flow or accumulation of surface water over the area where an on-site sewage system is located;
- e. A copy of the County approved final drainage plan shall be submitted for review; and,
- f. All proposed lots shall have a current approved septic system site evaluation or septic system permit. Should either be allowed to expire, subsequent approval of an on-site sewage treatment system cannot be assured and, therefore, the Health Department will not sign the final plat.

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<sup>5</sup> The minimum rear yard setback shall be 50 feet when abutting property zoned for natural resources or surface mining uses.

<sup>6</sup> This standard applies to residential buildings only.

**D-5 Developer Covenant:**

The applicant shall include the following in a note(s) on the final plat or a separate "Developer Covenant to Clark County" shall be submitted for recording to include the following:<sup>7</sup>

- a. Critical Aquifer Recharge Areas: "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."
- b. Erosion Control - "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."
- c. Land Near Agricultural, Forest or Mineral Resources: Land owners and residents are hereby notified that this plat is located within 500 feet of lands zoned agriculture-wildlife (AG-WL), agriculture (AG-20), forest (FR-40, FR-80), or surface mining (S), or in current use under Revised Code of Washington (RCW) Chapter 84.34. Therefore, the subject property is within or near designated agricultural land, forest land or mineral resource land (as applicable) on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. Potential discomforts or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any twenty-four (24) hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.
- d. Impact Fees: "In accordance with CCC 40.610, the School, and Traffic Impact Fees for each of the 7 dwellings in this subdivision are: \$7,090.02 (Hockinson School District), and \$2,749.47 (Rural 1 TIF district made up of \$1,403.23 local fees and \$1,347.24 regional fees), respectively. The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated \_\_\_\_\_, and expiring on \_\_\_\_\_. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedule."

**D-6 Addressing:**

At the time of final plat, existing residence(s) that will remain may be subject to an address change. Addressing will be determined based on point of access.

**D-7 Plat Notes:**

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<sup>7</sup> See CCC 40.540.070 (B) (7) (i) (Final Plat) and CCC 40.610.040 (Imposition of Impact Fees) for details.

The following notes shall be placed on the final plat:

- a. Land Use and Zoning: "Lot 4 is proposed as a 9.55 acre parcel; and, shall not be further divided (or platted) utilizing the 10 percent minimum lot area variance authorized in CCC 40.200.040 (C) (2) (Lot Area Calculations)." (See Land Use Finding 3)
- b. Archaeological: "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Department of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."
- c. Building Envelope Note: "If any development activity or ground disturbance occurs outside of the building envelopes represented on the final plat, an additional archaeological predetermination survey will be required for the area impacted."
- d. Septic Systems: "The approved, initial, reserve, and/or existing sewage system sites shall be protected from damage due to development. All sites shall be maintained so they are free from encroachment by buildings and not be subject to vehicular traffic or other activity which would adversely affect the site or system function."
- e. Utilities: "An easement is hereby reserved under and upon the exterior six (6) feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior six (6) feet along the front boundary lines of all lots adjacent to public streets."
- f. Driveways: "All residential driveway approaches entering public roads are required to comply with CCC 40.350."
- g. Geologic Hazard: "A Geo-hazard permit will be required for the proposed Lot 4 if any grading or placement of structures is proposed within the geo-hazard area or the geo-hazard setback." (See Geologic Hazard Areas Finding 1)

<b>E</b>	<b>Building Permits</b> <b>Review &amp; Approval Authority: Customer Service</b>
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Prior to issuance of a building permit, the following conditions shall be met:

**E-1 Impact Fees:**

The applicant shall pay traffic and school impact fees for each of the 7 lots as follows:

- a. \$7,090.02 per dwelling for School Impact Fees (Hockinson School District); and,
- b. \$2,749.47 per dwelling for Traffic Impact Fees (Rural 1 TIF District)

If the building permit application is made more than three years following the date of preliminary land division plan approval, the impact fees shall be recalculated according to the then-current rate.

**E-2 Stormwater:**

At the time of building permit application, the home owners must submit a plan for drainage project review and obtain approval for the onsite stormwater control system, unless the stormwater control system for the lot is pre-designed and approved with the final stormwater plan.

<b>F</b>	<b>Occupancy Permits</b> <b>Review &amp; Approval Authority: Building</b>
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Prior to issuance of an occupancy permit, the following conditions shall be met:

**F-1** None

<b>G</b>	<b>Development Review Timelines &amp; Advisory Information</b> <b>Review &amp; Approval Authority: None - Advisory to Applicant</b>
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**G-1 Land Division:**

Within 5 years of preliminary plan approval, a Fully Complete application for Final Plat review shall be submitted.

**G-2 Department of Ecology Permit for Construction Stormwater:**

A permit from the Department of Ecology (DOE) is required If:

- The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; **AND**,
- There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the one-acre threshold. This applies even if the applicant is responsible for only a small portion [less than one acre] of the larger project planned over time. **The applicant shall Contact the DOE for further information.**

**G-3 Building and Fire Safety:**

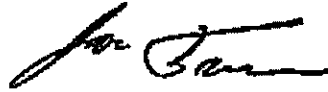
Building and Fire, Life, and Safety requirements must be addressed through specific approvals and permits. This decision may reference general and specific items related to structures and fire, life, and safety conditions, but they are only

for reference in regards to land use conditions. It is the responsibility of the owner, agent, tenant, or applicant to insure that Building Safety and Fire Marshal requirements are in compliance or brought into compliance. Land use decisions do not waive any building or fire code requirements.

<b>H</b>	<b>Post Development Requirements</b> <b>Review &amp; Approval Authority: As specified below</b>
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H-1    None

DATED this 22<sup>nd</sup> day of October 2009.

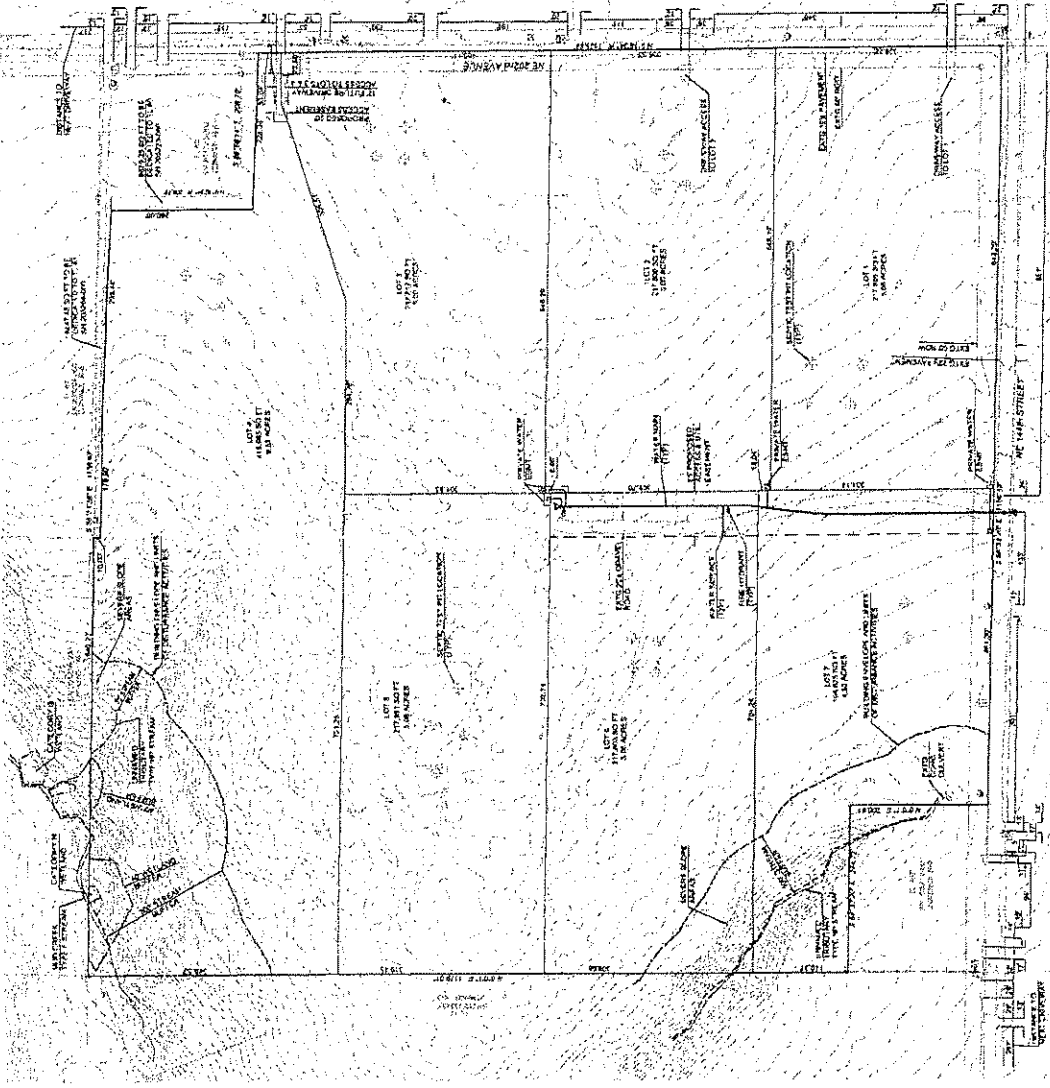
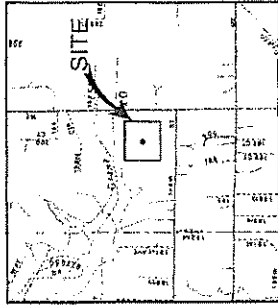


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Joe Turner, AICP, Hearings Examiner

# Varney Subdivision

Located in SW 1/4 of Section 20, T3N, R3E, W.M.  
Clark County, Washington



## PROJECT NOTES

1. Applicant & Owner: Clark County, Washington
2. Project Location: SW 1/4 of Section 20, T3N, R3E, W.M., Clark County, Washington
3. Project Description: Varney Subdivision
4. Project Purpose: To divide the land into smaller lots for residential development.
5. Project Status: Pending approval from the Clark County Planning Commission.
6. Project History: The project was first proposed in 2010 and has since been revised several times.
7. Project Goals: The goal of the project is to create a new residential neighborhood in the SW 1/4 of Section 20.
8. Project Constraints: The project is subject to the Clark County Comprehensive Zoning Ordinance and the Clark County Subdivision Map Act.
9. Project Risks: The project faces several risks, including the possibility of the project being rejected by the Planning Commission or the Clark County Board of Commissioners.
10. Project Mitigation: The project team will work to address any concerns raised by the Planning Commission or the Clark County Board of Commissioners.

## Varney Subdivision

A Subdivision Located in Clark County, Washington

Sheet No.	Section	Area (Acres)	Notes
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# HEARING EXAMINER EXHIBITS

Project Name: **VARNEY SUBDIVISION**

Case Number: **PLD2009-00030; SEP2009-00054**

Hearing Date: **October 8, 2009**

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Development Services	Aerial Map
2		CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	6/16/09	Applicant: Schlichting, LIC	Full Size Plans
6	6/16/09	Applicant: Schlichting, LIC	Application Binder: Cover Sheet & Table of Contents, Application Forms, Pre-App Report, GIS Packet, Narrative, Legal Lot Determination, Approved Preliminary Plats, Preliminary Boundary Survey, Soil Rpt, Preliminary Stormwater Rpt, Project Engineer Statement, Traffic Profile/Site Distance Certification, SEPA Checklist, Arch Pre-Determination, Sewer Utility Review, Water Utility Review, Health Dept Review, Critical Areas Report
7	7/7/09	CC Development Services	Development Review Fully Complete Determination
8	7/7/09	CC Development Services	<b>REVISED</b> Development Review Fully Complete Determination – Revised Hearing
9	7/31/09	CC Development Services	Notice of Type III Review/Optional SEPA and Public Hearing
10	7/31/09	CC Development Services	Affidavit of Mailing Public Notice
11	8/6/09	CC Development Services	<b>REVISED</b> Notice of Type III Review/Optional SEPA and Public Hearing
12	8/6/09	CC Development Services	Affidavit of Mailing Public Notice
13	8/26/09	Applicant – PLS Engineering	Geo-technical report
14	8/26/09	Applicant – PLS Engineering	<b>Revised</b> Plat from the applicant



EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
15	8/25/09	CC Development Services	30-day early issues e-mail to applicant
16	9/10/09	Applicant – PLS Engineering	Road modification request
17	8/5/09	Southwest Clean Air Agency	Agency Comments
18	8/12/09	Haly Lewis	Public Comments
19	9/14/09	CC Public Works - Doug Boheman, P.E.	Road Modification – Staff Report
20	9/3/09	Applicant – PLS Engineering	Affidavit of Posting Land Use Sign
21	9/10/09	CC Development Services	Legal Notice to Paper – Publication Date 9/23/09
22	9/23/09	CC Development Services	Affidavit of Posting Public Notice
23	9/23/09	CC Development Services	Type III Development & Environmental Review, Staff Report & Recommendation written by Michael Uduk
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Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division  
1300 Franklin Street  
Vancouver, WA 98666-9810